

ORIGINAL

United States Court of Federal Claims

No. 17-394 C

FILED

Filed: August 3, 2017

AUG - 3 2017

U.S. COURT OF
FEDERAL CLAIMS

DANNY HAWK,)
Plaintiff,)
v.)
THE UNITED STATES,)
Defendant.)

)

ORDER

The Court, by its own Motion, dismisses Mr. Hawk's Complaint for failure to prosecute under Rule 41(b) of the Court of Federal Claims ("RCFC"). The government filed a motion to dismiss in this case on May 15, 2017. Plaintiff's Response was due June 15, 2017. The Court attempted to contact plaintiff by telephone multiple times, but was unsuccessful. As a result, on July 11, 2017 the Court, *sua sponte*, issued an order extending the plaintiff's response deadline an additional 21 days. In its Order, the Court warned Mr. Hawk that if a response was not filed by August 1, 2017, the case would be dismissed. Mr. Hawk did not file a response on or before August 1, 2017.

RCFC 41(b) provides that "[i]f the plaintiff fails to prosecute or comply with these rules or a court order, the court may dismiss on its own motion or the defendant may move to dismiss the action or any claim against it." As *pro se* plaintiffs are, by their nature, unassisted, this Court may sometimes grant a *pro se* plaintiff greater lenience throughout the filing process. However, when a party fails to respond to the government's Motion to Dismiss and to subsequent Court Orders, dismissal is not only appropriate but required to properly administer justice. "While dismissal of a claim is a harsh action, especially to a *pro se* litigant, it is justified when a party fails to pursue litigation diligently and disregards the court's rules. . . ." *Whiting v. United States*, 99 Fed. Cl. 13, 17 (2011) (citing *Kadin Corp. v. United States*, 782 F.2d 175, 176-77 (Fed. Cir. 1986)).

Accordingly, this case is **DISMISSED**, without prejudice, for failure to prosecute in accordance with Rule 41(b), and all pending motions are dismissed as moot. The Clerk is directed to enter judgment for the government.

IT IS SO ORDERED.



Loren A. Smith
Senior Judge